

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

THOMAS JOHN SMITHSON,

Petitioner,

No. CIV S-01-1373 GEB DAD P

vs.

DERRAL ADAMS, Warden, et al.,

Respondents.

ORDER

Two motions filed by petitioner on May 18, 2005, are set for hearing before the undersigned on July 1, 2005. Respondents have filed opposition to petitioner's motion for evidentiary hearing and a statement of non-opposition to petitioner's motion to compel service of respondents' Exhibit E on petitioner's counsel.

On December 29, 2004, respondents filed their answer to petitioner's amended petition with a request to file Exhibit E under seal. By order filed January 10, 2005, the request was granted and Exhibit E was filed under seal in accordance with Local Rule 39-141. Respondents indicate that they will promptly comply with any order issued by this court requiring service of Exhibit E on petitioner's habeas counsel.

Good cause appearing, petitioner's motion to compel service of Exhibit E will be granted. In order that petitioner's counsel may review Exhibit E prior to submitting a reply to

respondents' opposition to petitioner's motion for evidentiary hearing, the court will require respondents to serve a copy of Exhibit E on petitioner's counsel within five calendar days.

Accordingly, IT IS HEREBY ORDERED that:

1. Petitioner's May 18, 2005 motion to compel service of Exhibit E to respondents' answer is granted, and petitioner's motion in the alternative to strike Exhibit E is denied.

2. Within five calendar days from the date of this order, respondents shall serve on petitioner's counsel a copy of Exhibit E to respondents' answer.

3. Petitioner's motion to compel service of or in the alternative to strike Exhibit E is dropped from the court's July 1, 2005 law and motion calendar.

DATED: June 15, 2005.

  
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DALE A. DROZD  
UNITED STATES MAGISTRATE JUDGE

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